

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to the Federal Bureau of Investigation – Chicago Field Office, West Residence Agency. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of a violation of Federal criminal laws.

1. Background

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

2. Identifying Joshua Winton

The FBI investigated James Robert Elliott (who pleaded guilty to a violation of 18 U.S.C. § 111(a)(1) on October 29, 2022, *United States v. Elliott*, 21-cr-735 (RCL)) for participating in the riot on January 6, 2021, and assaulting a law-enforcement officer on the West Front with a flag. Through interviews and a search of Elliott's phone, the FBI identified Joshua Winton as an associate of Elliott, and further determined that Winton used telephone number ***-***-8357, saved in Elliott's phone under the contact name "Josh". In text messages found on Elliott's phone between Elliott and Winton, using ***-***-8357, Elliott and Winton discussed traveling to the Stop the Steal rally in Washington, D.C., and staying at the Mayflower Hotel while in Washington. Records obtained from the hotel showed a reservation made by Winton on December 27, 2020, for the night of January 5, 2021.

In September 2022, the FBI interviewed Winton. Winton provided as his telephone number ***-***-8357 and confirmed that he is the person circled in yellow in Image 1 below.



Image 1: a still photograph of Winton (circled in yellow) attending the Stop the Steal rally, on the National Mall, on January 6, 2021.

According to records from Tracfone Wireless, no name was provided for the subscription for number ***-***8357. However, Tracfone Wireless records show that the account was paid for with a credit card belonging to Joshua Winton, with a billing address that matched the home address associated with Winton's Illinois driver's license record as of January 6, 2021.

Text messages recovered during the search of Elliott's phone showed that on January 6, 2021, at 8:02 a.m., Elliott sent Winton a text message reading, "Were [sic] you at?" At 1:40 p.m., Winton responded, "We need some prybars," "Well, that was an adventure," and "Where are you?" On January 8, 2021, Elliott sent a message to Winton that read, "Good news Josh they released the person of interest list, none of us are on it. The [sic] don't even have us on any pictures." Elliott also sent a text message to another individual stating, "No I stopped outside. I was there for the people not the building. Josh went in though lol."

The FBI reviewed the results of search warrants which were served on several cellular telephone providers, which would identify whether, on January 6, 2021, in and around the time of the riot at the Capitol, a cell phone associated with a particular phone number utilized a cell site consistent with providing service to a geographic area that includes the interior of the United States Capitol Building. The FBI did not locate ***-***-8357 in the available information. As described below, this investigation has yielded video and photographic evidence that Winton was on U.S. Capitol grounds and inside the U.S. Capitol Building with what appears to be a cellular telephone in his possession. Based on my training and experience, I know that the aforementioned search warrant results were not all-inclusive of all devices present during the riots.

I served TracFone Wireless with a search warrant for cell site information from January 6, 2021, for the phone number ***-***-8357. TracFone Wireless informed me that they do not operate cell towers, and that they use cell towers operated by Verizon Wireless. I am informed by Verizon Wireless that cell site data from January 6, 2021, would have been already deleted at the time I contacted them about serving a search warrant for cell site data related to Winton's cell phone.

3. Winton's participation in the events of January 6

On January 6, 2021, Winton attended the Stop the Steal Rally on the National Mall. At the rally, Winton appeared in a pair of glasses, a brown, zippered, hooded sweatshirt, blue jeans, tan leather boots, and a camouflage winter hat with ear flaps. At various points in the day, Winton put on black tactical gloves and an American-flag-patterned gaiter.



Image 2: a screenshot of open-source video showing Winton (circled in yellow) attending the Stop the Steal rally, on the National Mall, on January 6, 2021.

At approximately 2:27 p.m., Winton appeared on the Northwest Plaza of the United States Capitol, in front of the Senate Wing Door.



Image 3: a cropped screenshot of surveillance footage showing Winton (circled in yellow), carrying a white sign that says "TRUMP" in red letters, on the Northwest Plaza, outside the U.S. Capitol, timestamped 2:27 p.m.



Image 4: a cropped screenshot of open-source video showing Winton (circled in yellow), carrying a white sign that says "TRUMP" in red letters, on the Northwest Plaza, outside the U.S. Capitol.

At approximately 2:40 p.m., rioters began battering the Senate Parliamentarian Door open. Winton was standing at the bottom of the stairs that led up to the Senate Parliamentarian Door.



Image 5: a screenshot of open-source video showing Winton (circled in yellow) standing outside the Senate Parliamentarian Door; at the door, rioters attempt to batter the door open.



Images 6, 7, and 8: screenshots of open-source video showing Winton (circled in yellow) standing outside the Senate Parliamentarian Door, and then rushing up the stairs toward the door after rioters broke it open.



Images 9 and 10: screenshots of open-source video showing Winton (circled in yellow) running up toward the Senate Parliamentarian Door.

Once inside the Senate Parliamentarian Door, four uniformed U.S. Capitol Police officers confronted Winton and the rioters with whom he entered. While three of the officers retreated, Winton and three other rioters grappled with the fourth officer, who broke free and retreated as well. More rioters entered through the broken door and filled the hallway.



Image 11: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) just inside the Senate Parliamentarian door.



Image 12: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) joining three other rioters in restraining a uniformed U.S. Capitol Police officer.

After the USCP officers retreated, the hallway filled with rioters. Winton began kicking at the doors to S-131, the Senate Appropriations Committee conference room.



Image 13: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) kicking at the door of S-131.

Winton then watched as another rioter attempted to batter the doors to S-131 down with a wooden sign.

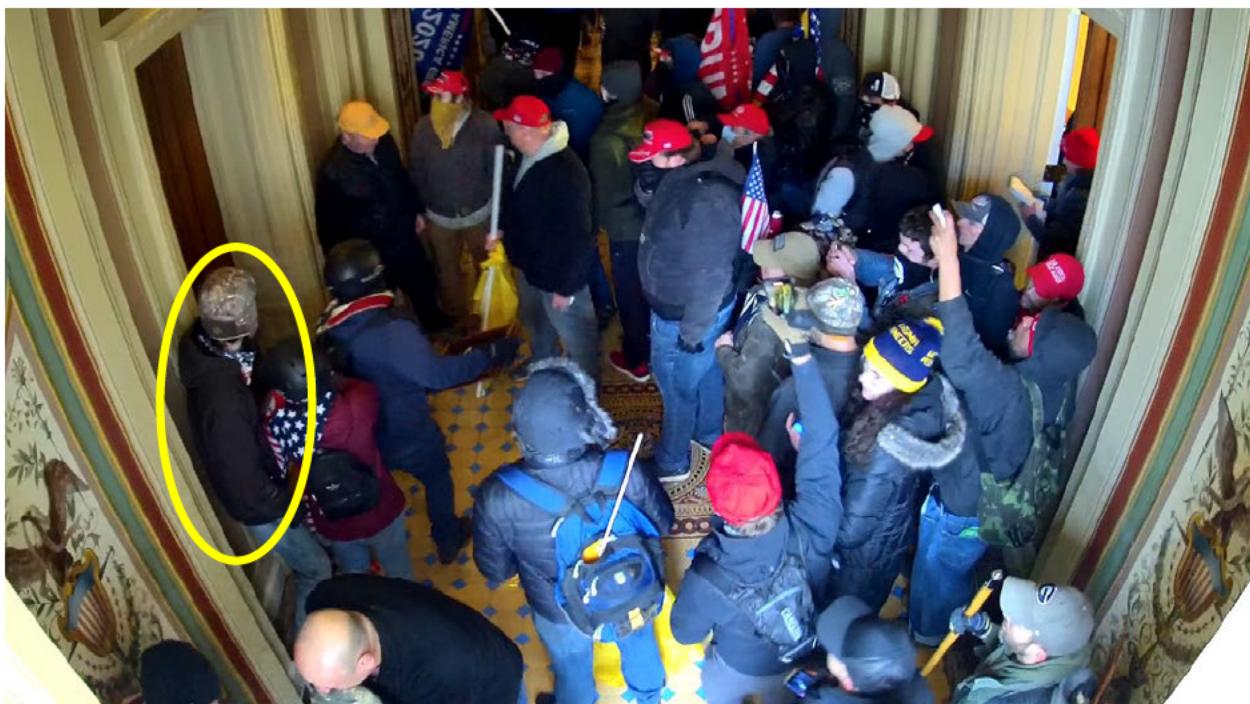


Image 14: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) watching as another rioter attempts to batter down the door with a sign.

The rioter stopped attempting to batter the doors down after the sign he was using broke apart. After the sign broke apart, at approximately 2:44 p.m., a group of rioters began attempting to break the doors down by slamming their shoulders into the doors. Winton approached this group of rioters and assisted them by throwing his weight behind a rioter, while that rioter slammed their shoulder into the left-hand door. At the same time, three different rioters did the same to the right-hand door. Winton and the other rioters threw themselves into the doors several times until they eventually broke open the doors. Once the group breached the doors, Winton entered the adjoining room. As a result of their actions, Winton and the others caused damage to the doors that cost \$21,191 to repair.

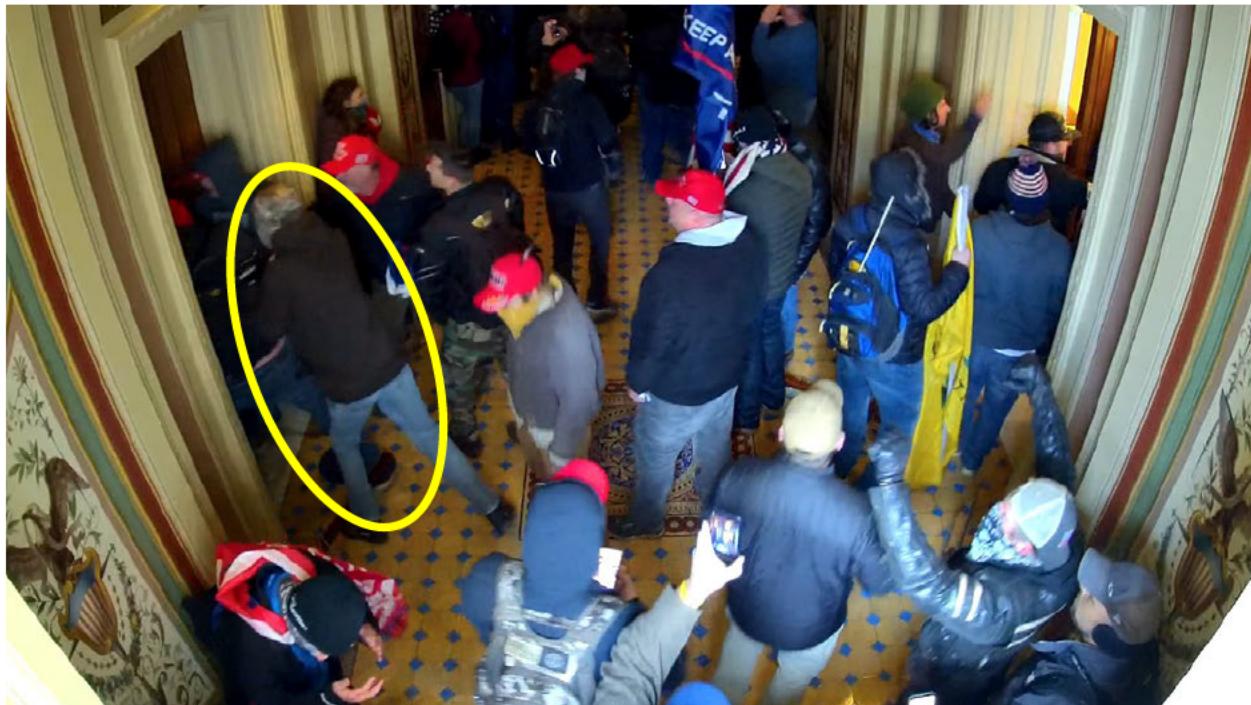


Image 15: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) joining the group attempting to batter down the door to S-131.

At approximately 2:48 p.m., Winton left the Senate Appropriations Suite through the same doors he entered through, and crossed the Brumidi Corridor to the Senate Parliamentarian's Office. He remained inside for approximately one minute, and then walked east on the Brumidi Corridor.

At approximately 2:54 p.m., Winton returned to the doors to Room S-131 and stopped to observe the damage to the doors. He then headed back east on the Brumidi Corridor.



Image 16: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) observing the damage to the doors to S-131.

At approximately 3:03 p.m., Winton climbed the stairs outside the Senate Chamber. He attempted to open a locked door to the Senate Chamber but was unable to.



Image 17: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) climbing the stairs outside the Senate Chamber.



Image 18: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) attempting to open the door to the Senate Chamber.

At approximately 3:04 p.m., Winton entered the floor of the Senate Chamber, and remained inside for approximately five minutes, only leaving when a large contingent of Metropolitan Police Department officers entered the chamber and began ordering rioters out.



Image 19: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) walking into the Senate Chamber.



Images 20 and 21: screenshots of U.S. Capitol surveillance footage showing Winton (circled in yellow) walking into the Senate Chamber.



Image 22: a screenshot of an open-source video showing Winton (circled in yellow) using his cell phone on the Senate Floor.



Image 23: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) on the Senate Floor.



Images 24 and 25: screenshots of U.S. Capitol surveillance footage showing Winton (circled in yellow) using another rioter's phone to take a photo of that rioter as he sits in then-Senate Majority Leader Mitch McConnell's seat.



Images 26 and 27: screenshots of U.S. Capitol surveillance footage showing Winton (circled in yellow) leaving the Senate Chamber, at approximately 3:09 p.m.

After leaving the Senate Chamber, Winton left the U.S. Capitol through the Senate Carriage Doors at approximately 3:10 p.m. He walked across the East Front of the U.S. Capitol, and then walked west past the House side of the Capitol building.



Image 28: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) leaving the Capitol at approximately 3:10 p.m., through the Senate Carriage Doors.



Image 29: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) walking outside the southeastern corner of the Capitol, at approximately 3:16 p.m. New Jersey Avenue SE, the Cannon Building, and the Longworth Building can be seen behind him.

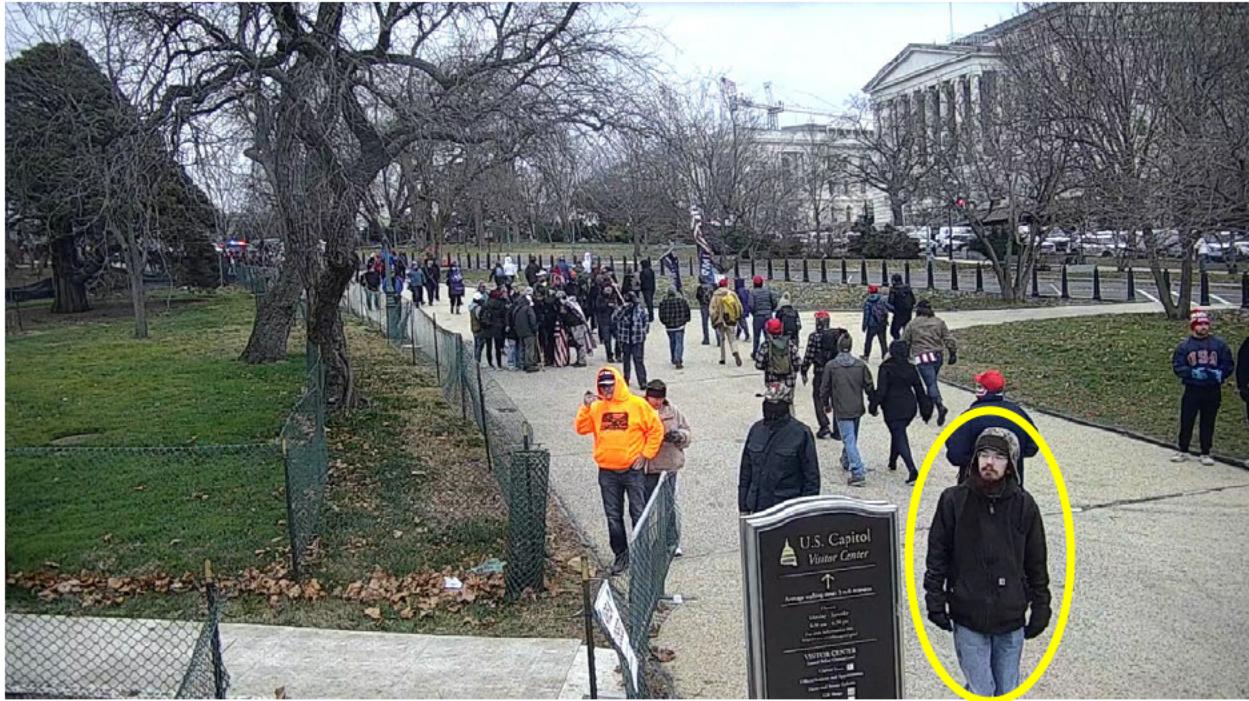


Image 30: a screenshot of U.S. Capitol surveillance footage showing Winton (circled in yellow) walking outside the Capitol, along Independence Avenue SW, at approximately 3:18 p.m. The Cannon Building and Longworth Building can be seen behind him.

4. Charges

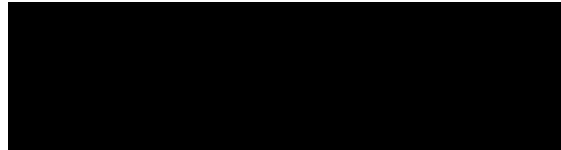
Based on the foregoing, your affiant submits that there is probable cause to believe that Winton violated 18 U.S.C. § 1752(a)(1), (2), and (4), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; or attempt or conspire to do so. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Your affiant submits there is also probable cause to believe that Winton violated 40 U.S.C. § 5104(e)(2)(A), (C), (D), (F), and (G), which makes it a crime to willfully and knowingly (A) enter or remain on the floor of either House of Congress or in any cloakroom or lobby adjacent to that floor, in the Rayburn Room of the House of Representatives, or in the Marble Room of the Senate, unless authorized to do so pursuant to rules adopted, or an authorization given, by that House; (C) with the intent to disrupt the orderly conduct of official business, enter or remain in a room in any of the Capitol Buildings set aside or designated for the use of— (i) either House of Congress or a Member, committee, officer, or employee of Congress, or either House of Congress;

or (ii) the Library of Congress; (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Your affiant submits there is probable cause to believe that Winton violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.

Finally, your affiant submits there is probable cause to believe that Winton violated 18 U.S.C. §§ 1361 and 2, by willfully injuring or depredating of any property of the United States in an amount in excess of one thousand dollars.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 16th day of December, 2024.

HONORABLE ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE